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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,829	01/24/2001	Norbert Miller	00-1460	5180

30008 7590 09/02/2010
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EXAMINER

FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
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3689

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09/02/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/769,829	Applicant(s) MILLER ET AL.	
	Examiner MICHAEL J. FISHER	Art Unit 3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 6,568,595 to Russell et al. (Russell).

Russell teaches a method of selling services and/or products using a communications link (Title), wherein the user 'carries out a specification by selecting a provider's product (inherent in that the patent is directed toward selling products over the internet), transmits an identification code (claim 1), the provider sends codes to a code verification system (claim 1, symbol reader), the system triggers a non-contact code verification (claim 1) which would compare the codes to find the proper one, and granting access to the user upon code verification (claim 1, last paragraph).

Russell does not specifically mention a "mobile communication network" however, it is very well known in the art to use wireless communications to access the Internet, such as so-called wi-fi hookups, and therefore, it would have been obvious to one of ordinary skill in the art to modify the system as disclosed by Russell by using a wireless internet hook-up to ease connection to the Internet. Further, the preferred method of accessing the Internet is through a telephone service. It further would be obvious to have the communication device (whether phone or computer connected to the Internet via a cellular network) to save the data to ensure a record is saved in case of later disputes.

As to claims 2-4, the various communications links are very well known in the art and therefore, it would have been obvious to one of ordinary skill in the art to use these links to ease connection to the system.

As to claim 5, the code would be issued for a user for a limited time (as long as the user keeps an account current).

As to claim 6, the user calls the system, thereby activating the link.

As to claim 7, telephone networks are well known to use optical cable, thereby meeting the limitations as claimed.

As to claim 8, the code would be released by selective activation (upon receipt of an order by a user.)

As to claim 9, Russell would inherently have a central, processing system (web server).

As to claim 10, the central system would inherently be equipped with a data telecommunications interface (modem, to connect to the Internet). As modems transfer data from a network to a computer and vice versa, it would inherently perform the functions claimed as they are carried out.

As to claim 11, the method could be used for purchasing any items, such as reserved parking space, the information processed would be reservation information.

As to claim 12, an accounting statement would be automatically generated (it would be inherent that a bill would be generated).

Response to Arguments

Applicant's arguments with respect to the rejection under 35 U.S.C. 101 have been fully considered and are persuasive. This rejection has been withdrawn.

Applicant's arguments filed 5/18/10 have been fully considered but they are not persuasive. As to "non-contact" verification, as the prior art teaches ensuring the code is proper, it would have to compare it or else it could not know if the code was correct.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. FISHER whose telephone number is (571)272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J Fisher/
Examiner, Art Unit 3689
MF
8/30/10